



Date: 17 October 2023

To: Shire President
All Councillors

Copy: Directors
Managers
Staff

ORDINARY COUNCIL MEETING NOTICE AND AGENDA

An Ordinary Council meeting of the Shire of Waroona will be held in the Council Chamber on 24 October 2023 at 4.00pm to consider and resolve the matters set out in the attached Agenda.

A handwritten signature in blue ink, appearing to be "MG", is positioned above the name of the Chief Executive Officer.

**MARK GOODLET
CHIEF EXECUTIVE OFFICER**

PUBLIC QUESTION TIME

1. The order of business allows for a Public Question time at the beginning of the Meeting.
2. If you wish to ask a Question about an Agenda Item before it is considered then it is recommended to be made at the Public Question Time at Item 10 on the Agenda Notice Paper in accordance with Council's Procedures and Guidelines for Public Question Time.
3. The visual or vocal recording of Council meeting proceedings is expressly prohibited unless the prior approval of the Council has been given.

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AGENDA

1. **DECLARATION OF OPENING/ANNOUNCEMENTS OF VISITORS**

2. **OATH OR AFFIRMATION OF ALLEGIANCE AND DECLARATION OF OFFICE TO BE TAKEN BY ELECTED COUNCILLORS**

Mrs Lina Look JP will conduct the Oath or Affirmation of Allegiance and Declaration of office for the elected Councillors.

i.	Cr		Four Year Term
ii.	Cr		Four Year Term
iii.	Cr		Four Year Term
iv.	Cr		Two Year Term

3. **ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE**

4. **ELECTION OF SHIRE PRESIDENT**

File Ref: GO.3
 Author and Title: Mark Goodlet, Chief Executive Officer

RECOMMENDATION

That:

1. **the Chief Executive Officer reads aloud nominations for the position of Shire President and requests those nominated to state verbally if they are willing to accept that nomination, and that votes are cast accordingly as per the *Local Government Act 1995*; and**

2. **that in the event that there is more than one nomination for Shire President, that the nominees are invited to speak to their nomination for no more than five (5) minutes, prior to the casting of votes.**

IN BRIEF

Under the *Local Government Act 1995 (as amended)* for the election of President, when elected by the Council, nominations are to be given to the CEO in writing at a time announced by the CEO.

If a Councillor is nominated by another Councillor the CEO is not to accept the nomination unless the nominee has advised the CEO, orally or in writing, that he or she is willing to be nominated for the office.

Voting is by secret ballot as if they were electors voting at an election.

If, when the votes are counted there is an equality of votes, the count is to be discontinued and the meeting is to be adjourned for not more than seven days.

BACKGROUND

As the election for President is to be conducted as if they were electors voting at an election, it is requested that all nominations be received by 3.30pm on Tuesday 24 October 2023. This will then give officers time to have election papers printed prior to the 4.00pm commencement of the meeting.

STATUTORY ENVIRONMENT

Local Government Act 1995

Section 2.11 - Alternative methods of filling office of mayor or president

- (1) When an order is made under section 2.1 declaring an area of the State to be a district, the Governor is, by order, to specify whether the first mayor or president of the local government is to be —
 - (a) elected by electors of the district under Part 4; or
 - (b) elected by the council from amongst the councillors under Schedule 2.3, Division 1.
 - (2) A local government may change* the method of filling the office of mayor or president used by the local government from the election by the council method to the election by the electors method.
- * *Absolute Majority Required*
- (3) A local government may exercise the power conferred by subsection (2) whether or not a proposal has been made under section 2.12.
 - (4) The method of filling the office of mayor or president used by a local government is changed from the election by the electors method to the election by the council method if the result of a poll declared under section 2.12A(4) is that a majority of electors of the district who voted at the poll voted in favour of the change.

Section 2.15 – Filling office of deputy mayor or deputy president

The deputy mayor or deputy president is to be elected by the council under Schedule 2.3, Division 2.

Schedule 2.3 – When and how mayors, presidents, deputy mayors and deputy presidents are elected by council

[Sections 2.11(1)(b) and 2.15]

Division 1 – Mayors and presidents

1. Terms used

In this Division —

extraordinary vacancy means a vacancy that occurs under section 2.34(1);

office means the office of councillor mayor or president.

2. When council elects mayor or president

- (1) *The office is to be filled as the first matter dealt with —*

- (a) *at the first meeting of the council after an inaugural election or a section 4.13 or 4.14 election or after an ordinary elections day; and*
 - (b) *at the first meeting of the council after an extraordinary vacancy occurs in the office.*
- (2) *If the first ordinary meeting of the council is more than 3 weeks after an extraordinary vacancy occurs in the office, a special meeting of the council is to be held within that period for the purpose of filling the office.*

3. CEO to preside

The CEO is to preside at the meeting until the office is filled.

4. How mayor or president is elected

- (1) *The council is to elect a councillor to fill the office.*
- (2) *The election is to be conducted by the CEO in accordance with the procedure prescribed.*
- (3) *Nominations for the office are to be given to the CEO in writing before the meeting or during the meeting before the close of nominations.*
- (3a) *Nominations close at the meeting at a time announced by the CEO, which is to be a sufficient time after the announcement by the CEO that nominations are about to close to allow for any nominations made to be dealt with.*
- (4) *If a councillor is nominated by another councillor the CEO is not to accept the nomination unless the nominee has advised the CEO, orally or in writing, that he or she is willing to be nominated for the office.*
- (5) *The councillors are to vote on the matter by secret ballot as if they were electors voting at an election.*
- (6) *Subject to clause 5(1), the votes cast under subclause (5) are to be counted, and the successful candidate determined, in accordance with Schedule 4.1 (which deals with determining the result of an election) as if those votes were votes cast at an election.*
- (7) *As soon as is practicable after the result of the election is known, the CEO is to declare and give notice of the result in accordance with regulations, if any.*

5. Votes may be cast a second time

- (1) *If when the votes cast under clause 4(5) are counted there is an equality of votes between 2 or more candidates who are the only candidates in, or remaining in, the count, the count is to be discontinued and the meeting is to be adjourned for not more than 7 days.*
- (2) *Any nomination for the office may be withdrawn, and further nominations may be made, before or when the meeting resumes.*
- (3) *When the meeting resumes the councillors are to vote again on the matter by secret ballot as if they were electors voting at an election.*
- (4) *The votes cast under subclause (3) are to be counted, and the successful candidate determined, in accordance with Schedule 4.1 as if those votes were votes cast at an election.*

Division 2 — Deputy mayors and deputy presidents

6. Terms used

In this Division —

extraordinary vacancy means a vacancy that occurs under section 2.34(1);

office means the office of deputy mayor or deputy president.

7. When council elects deputy mayor or deputy president

- (1) If the local government has an elector mayor or president the office of deputy mayor or deputy president is to be filled as the first matter dealt with —
 - (a) at the first meeting of the council after an inaugural election or a section 4.13 or 4.14 election or after an ordinary elections day; and
 - (b) at the first meeting of the council after an extraordinary vacancy occurs in the office.
- (2) If the local government has a councillor mayor or president the office of deputy mayor or deputy president is to be filled —
 - (a) as the next matter dealt with after the mayor or president is elected at the first meeting of the council after an inaugural election or a section 4.13 or 4.14 election or after an ordinary elections day; and
 - (b) subject to subclause (3), as the first matter dealt with at the first meeting of the council after an extraordinary vacancy occurs in the office.
- (3) If at a meeting referred to in clause 2(1)(b) the deputy mayor or deputy president is elected to be the mayor or president, the resulting extraordinary vacancy in the office is to be filled as the next matter dealt with at the same meeting.

8. How deputy mayor or deputy president is elected

- (1) The council is to elect a councillor (other than the mayor or president) to fill the office.
- (2) The election is to be conducted in accordance with the procedure prescribed by the mayor or president, or if he or she is not present, by the CEO.
- (3) Nominations for the office are to be given to the person conducting the election in writing before the meeting or during the meeting before the close of nominations.
- (3a) Nominations close at the meeting at a time announced by the person conducting the election, which is to be a sufficient time after the announcement by that person that nominations are about to close to allow for any nominations made to be dealt with.
- (4) If a councillor is nominated by another councillor the person conducting the election is not to accept the nomination unless the nominee has advised the person conducting the election, orally or in writing, that he or she is willing to be nominated for the office.
- (5) The council members are to vote on the matter by secret ballot as if they were electors voting at an election.
- (6) Subject to clause 9(1) the votes cast under subclause (5) are to be counted, and the successful candidate determined, in accordance with Schedule 4.1 as if those votes were votes cast at an election.
- (7) As soon as is practicable after the result of the election is known, the person conducting the election is to declare and give notice of the result in accordance with regulations, if any.

9. Votes may be cast a second time

- (1) *If, when the votes cast under clause 8(5) are counted, there is an equality of votes between 2 or more candidates who are the only candidates in, or remaining in, the count, the count is to be discontinued and, not more than 7 days later, a special meeting of the council is to be held.*
- (2) *Any nomination for the office may be withdrawn, and further nominations may be made, before or when the special meeting is held.*
- (3) *When the special meeting is held the council members are to vote again on the matter by secret ballot as if they were voting at an election.*
- (4) *The votes cast under subclause (3) are to be counted, and the successful candidate determined, under Schedule 4.1 as if those votes were votes cast at an election.*

SUMMARY

Nominations for Shire President may be made prior to, or at the time of dealing with Item 4 of this Agenda. Nominations will then close and ballot papers will be immediately printed and then the ballot held. A short adjournment will occur while ballot papers are printed.

For the purpose of having ballot papers printed, it is suggested that nominations be provided to the Returning Officer (CEO) prior to this meeting. This may alleviate the need for an adjournment.

5. SWEARING IN OF SHIRE PRESIDENT

Mrs Lina Look JP will conduct the Oath or Affirmation of Allegiance and Declaration of office of Shire President.

6. ELECTION OF DEPUTY SHIRE PRESIDENT

RECOMMENDATION

That the elected Shire President calls for nominations for the position of Deputy President from the members.

IN BRIEF

Once nominations close for the position of Deputy President, if there is more than one nomination, there will be a short adjournment to print the ballot papers.

In regard to the election of the Deputy President, Schedule 2.3(2) of the *Local Government Act 1995* states that this election is to be conducted in accordance with the procedure prescribed by the President, or if he or she is not present, by the CEO. Nominations are to be given to the person conducting the election in writing before the meeting or during the meeting before the close of nominations. Council members are to vote on the matter by way of secret ballot.

7. SWEARING IN OF DEPUTY SHIRE PRESIDENT

Mrs Lina Look JP will conduct the Oath or Affirmation of Allegiance and Declaration of office for Deputy Shire President.

8. SEATING ALLOCATION FOR COUNCILLORS**RECOMMENDATION**

That the CEO shall allot, by ballot, a position at the Council table by each member.

9. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**10. PUBLIC QUESTION TIME****11. PETITIONS AND APPROVED DEPUTATIONS****12. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS****12.1 Ordinary Council Meeting – 26 September 2023****RECOMMENDATION**

That the Minutes of the Ordinary Council Meeting held 26 September 2023 be confirmed as being a true and correct record of proceedings.

13. ANNOUNCEMENTS BY THE PRESIDING MEMBER**14. ANNOUNCEMENTS BY MEMBERS****15. DISCLOSURES OF INTEREST**

(Disclosure of interest MUST ALSO be made by the member or officer immediately prior to a matter, for which an interest is being disclosed, is dealt with.)

16. RECEPTION OF MINUTES AND RECOMMENDATIONS OF COMMITTEES

16.1 Local Emergency Management Committee Unconfirmed Minutes – meeting held 2 August 2023.

RECOMMENDATION:

That Council receives and notes the Minutes of the Local Emergency Management Committee meeting held on Wednesday 2 August 2023 (as per Appendix 16.1).

17. ELECTION OF COMMITTEE MEMBERS AND REPRESENTATIVES**17.1 Current Council Committees**

- (a) Finance & Audit Committee

All Councillors

Meeting requirements: As required, generally 2-4 times per year.

RECOMMENDATION:

That all Councillors are elected to the Finance and Audit Committee.

(b) Alcoa Waroona Sustainability Fund Committee

2 councillors

Meeting Requirements: Meets when required (at least 3 times per year)

RECOMMENDATION:

That Councillors _____ and _____ are elected to the Alcoa Waroona Sustainability Fund Committee.

(c) Bush Fire Advisory Committee

1 Councillor

Meeting Requirements: Meets as required (2 meetings per year)

RECOMMENDATION

That Councillor _____ is elected to the Bushfire Advisory Committee.

(d) Local Emergency Management Committee

1 Councillor and CEO nominated officer/s.

Meeting Requirements: Meets quarterly at 3 pm.

RECOMMENDATION

That Councillor _____ is elected to the Local Emergency Management Committee.

17.2 Current Advisory Groups

(a) Recreation Advisory Working Group

4 Councillors

Meeting Requirements: Meets quarterly

(b) Waroona Visitor Centre Advisory Working Group

3 Councillors

Meeting Requirements: When required (generally 3-4 times per year)

(c) Awards Committee Advisory Working Group

4 Councillors

Meeting requirements: As required (usually 2 meetings per year)

RECOMMENDATION

That Council accepts the appointment of the following representatives to Advisory Groups:

- (a) **Recreation Advisory Working Group**
 - i. Councillor _____, Councillor _____, Councillor _____ and Councillor _____; and
- (b) **Waroona Visitor Centre Advisory Working Group**
 - i. Councillor _____, Councillor _____ and Councillor _____; and
- (c) **Awards Committee Advisory Working Group**
 - i. Councillor _____, Councillor _____, Councillor _____, and Councillor _____.

17.3 External Committees, Associations and Advisory Groups

- (a) Preston Beach Progress Association
1 Councillor - Meets once per month
- (b) Lake Clifton Herron Progress Association
1 Councillor - Meets once per month
- (c) Wagerup Community Consultative Network
2 Councillors
- (d) Western Australian Local Government Association – Peel Zone
2 Councillors – Shire President & Deputy Shire President
- (e) Regional Road Group (Southwest)
1 Councillor & 1 proxy - Meets 3 times per year. Monday mornings at 9.30 am at Shire of Dardanup, Eaton
- (f) Coast Swap
1 Councillor & Town Planning Officer. Meets as required (generally 2 meetings per year)
- (g) Regional Joint Development Assessment Panel
2 Councillors and 2 alternate delegates - requires training - Meets as required.
- (h) Waroona Interagency Committee
1 Councillor - Meets Bi-monthly, Tuesdays/Wed 11am to 1pm
- (i) Harvey River Restoration Taskforce
1 Councillor
- (j) Peel Mosquito Management Group
1 Councillor
- (k) Waroona Historical Society
1 Councillor
- (l) Peel Regional Leaders Forum (Peel Alliance)
1 Councillor – Generally President with Deputy as the proxy (voting member) & CEO (non-voting member)

- (m) Peron Naturaliste Partnership
1 Councillor & 1 proxy
- (n) Alcoa Wagerup Environmental Improvement Plan Stakeholder Reference Group
1 Councillor
1 staff member appointed by the CEO
- (o) Peel Harvey Biosecurity Group
1 Councillor

RECOMMENDATION

That Council accepts the appointment of the following representatives to the external committees, associations and advisory groups:

- (a) **Preston Beach Progress Association**
 - i. Councillor _____; and
- (b) **Lake Clifton Herron Progress Association**
 - i. Councillor _____; and
- (c) **Wagerup Community Consultative Network**
 - i. Councillor _____ and Councillor _____; and
- (d) **Western Australian Local Government Association – Peel Zone**
 - i. Councillor _____ and Councillor _____; and
- (e) **Regional Road Group (Southwest)**
 - i. Councillor _____; and
- (f) **Coast Swap**
 - i. Councillor _____; and
- (g) **Regional Joint Development Assessment Panel**
 - i. Councillor _____ and Councillor _____, with alternatives
Councillor _____ and Councillor _____; and
- (h) **Waroona Interagency Committee**
 - i. Councillor _____; and
- (i) **Harvey River Restoration Task Force**
 - i. Councillor _____; and
- (j) **Peel Mosquito Management Group**
 - i. Councillor _____; and
- (k) **Waroona Historical Society**
 - i. Councillor _____; and
- (l) **Peel Regional Leaders Forum (Peel Alliance)**
 - i. Councillor _____ and proxy, Councillor _____; and
- (m) **Peron Naturaliste Partnership**
 - i. Councillor _____ and proxy, Councillor _____; and

- (n) Alcoa Wagerup Environmental Improvement Plan Stakeholder Reference Group**
 - i. Councillor _____; and**
 - ii. Officer appointed by CEO; and**

- (o) Peel Harvey Biosecurity Group**
 - i. Councillor _____.**

18. REPORTS OF THE CHIEF EXECUTIVE OFFICER AND OFFICERS

18.1 DIRECTOR INFRASTRUCTURE & DEVELOPMENT SERVICES

18.2 DIRECTOR CORPORATE & COMMUNITY SERVICES

18.2.1 Listing of Payments for the months of September 2023	
File Ref:	FM.3 – Financial Management – Creditors
Previous Items:	N/A
Applicant:	N/A
Author and Responsible Officer	Senior Finance Officer; Director Corporate & Community Services
Voting Requirements:	Simple Majority
Declaration of Interest:	Nil
Appendices:	18.2.1 - Monthly Creditor Reports – September 2023

RECOMMENDATION

That Council receives the following payments made throughout the month of September 2023;

Municipal	Cheque	10162 – 10172	\$	24,779.87
	EFT	39224 – 39373	\$	1,158,569.03
Direct wages	01/09/2023 – 30/09/2023 inclusive		\$	216,514.42
Direct Debit	01/09/2023 – 30/09/2023		\$	210,700.43
Trust	Cheque		\$	-
	EFT		\$	-
GRAND TOTAL			\$	1,610,563.75

as per Appendix 18.2.1.

IN BRIEF

The purpose of this report is to present the listing of payments made from the Shire's Municipal and Trust funds throughout the month of September 2023.

BACKGROUND

The attached appendix lists the payments from Council Municipal and Trust funds for the month applicable as per requirements of the Local Government Act 1995 and the Local Government (Financial Management) Regulations 1996.

As per Regulation 13 of the Local Government (Financial Management) Regulations 1996 the following information is required to be presented to Council;

- The Payee's name;
- The amount of the payment;

- The date of the Payment; and
- Sufficient information to identify the transaction.

REPORT DETAIL

As Council has delegated authority to the Chief Executive Officer to execute payments from the municipal fund and the trust fund a list of accounts paid are required to be submitted to Council showing the prescribed information.

STRATEGIC COMMUNITY PLAN & CORPORATE BUSINESS PLAN

Focus Area	Our Leadership
Aspiration	To embed strong leadership through good governance, effective communication and ensuring value for money
Objective	5.1 A sustainable future through embracing change, applying technological advancement and pursuing efficiencies
Strategy	5.1.1 Establish a strong corporate governance framework to ensure high standards of integrity, ethics and accountability, and pursue professional development opportunities
Action	

OTHER STRATEGIC LINKS

Nil

STATUTORY ENVIRONMENT

As per Regulation 13 of the *Local Government (Financial Management) Regulations 1996* the following is required;

- (1) If the local government has delegated to the CEO the exercise of its power to make payments from the municipal fund or the trust fund, a list of accounts paid by the CEO is to be prepared each month showing for each account paid since the last such list was prepared
 - (a) the payee’s name; and
 - (b) the amount of the payment; and
 - (c) the date of the payment; and
 - (d) sufficient information to identify the transaction.

- (2) A list of accounts for approval to be paid is to be prepared each month showing
 - (a) for each account which requires council authorisation in that month
 - (i) the payee’s name; and
 - (ii) the amount of the payment; and
 - (iii) sufficient information to identify the transaction; and
 - (b) the date of the meeting of the council to which the list is to be presented.

- (3) A list prepared under sub regulation (1) or (2) is to be —
 - (a) presented to the council at the next ordinary meeting of the council after the list is prepared; and
 - (b) recorded in the minutes of that meeting.

SUSTAINABILITY & RISK CONSIDERATIONS

Economic - (Impact on the Economy of the Shire and Region)

Nil

Social - (Quality of life to community and/or affected landowners)

Nil

Environment – (Impact on environment’s sustainability)

Nil

Policy Implications

Nil

Risk Management Implications*(Please refer to the Shire of Waroona Risk Framework when reviewing this section)*

<i>Theme</i>	Operational - Adverse effects on core business, business continuity, human resource risks, loss of knowledge
<i>Description</i>	Non-compliance with the requirements stipulated by the <i>Local Government Act 1995</i>
<i>Consequence</i>	3 - Moderate
<i>Likelihood</i>	2 - Unlikely
<i>Rating</i>	Moderate (4-9)
<i>Controls / Review</i>	Control measures are in place whereby payments are checked and verified by two authorising officers.
<i>Review Frequency</i>	Monthly
<i>Risk Owner</i>	Operational manager
<i>Acceptance</i>	Accept - Risk acceptable with adequate controls

CONSULTATION

Nil

RESOURCE IMPLICATIONS**Financial**

Nil

Workforce

Nil

OPTIONS

Council has the option of:

1. receiving the listing of payments presented for the month of September 2023; or
2. not receiving the listing of payments presented for the month of September 2023.

CONCLUSION

The listing of payments as per the attached appendix is a true reflection of the expenditure from the Municipal and Trust Fund accounts for the month of September 2023. All expenditure is accordance with the 2023/24 adopted budget and is presented as per the

prescription within regulation 13 of the *Local Government (Financial Management) Regulation 1996*.

18.2.2 Monthly Statement of Financial Activity for the period ending 30 September 2023	
File Ref:	FM.1 – Financial Management – Creditors
Previous Items:	N/A
Applicant:	N/A
Author:	Manager Corporate Services;
Responsible Officer:	Director Corporate & Community Services
Voting Requirements:	Simple Majority
Declaration of Interest:	Nil
Appendices:	18.2.2 – Monthly Agenda Report 22-23 September 2023

RECOMMENDATION

That Council receives the Monthly Statement of Financial Activity for the period ending 30 September 2023 as per Appendix 18.2.2.

IN BRIEF

The purpose of this report is to present the financial position of Council as at the reporting date as per requirements of the *Local Government Act 1995* and the *Local Government (Financial Management) Regulations 1996*.

BACKGROUND

The *Local Government Act 1995* in conjunction with regulation 34(1) of the *Local Government (Financial Management) Regulations 1996* requires a monthly Statement of Financial Activity to be presented to Council detailing the prescribed information within 2 months after the end of the month to which the statement relates.

REPORT DETAIL

The monthly financial report recognises the financial position of Council at the reporting date and contains the following information:

- a) Annual budget estimates taking into account any expenditure incurred for an additional purpose under section 6.8(1) (b) or (c) of the *Local Government Act 1995*;
- b) Budget estimates to the end of the month to which the statement relates;
- c) Actual amounts of expenditure, revenue, and income to the end of the month to which the statements relate;
- d) The material variance between the comparable amounts referred to in the paragraphs (b) and (c); and
- e) The net current assets at the end of the month to which the statement relates.

The following information is included in the report;

- Statement of Financial Activity by Programme
- Statement of Financial Activity by Nature and Type, and
- Statement of Financial Position
- Note 1 – Significant Accounting Policies
- Note 2 – Graphical Representation
- Note 3 – Net Current Funding Position
- Note 4 – Cash and Investments
- Note 5 – Major Variances
- Note 6 – Budget Amendments

- Note 7 – Receivables
- Note 8 – Grants & Contributions
- Note 10 – Capital Disposals and Acquisitions
- Note 11 – Significant Capital Projects
- Note 12 – Trust
- Note 13 - Borrowings

STRATEGIC COMMUNITY PLAN & CORPORATE BUSINESS PLAN

Focus Area	Our Leadership
Aspiration	To embed strong leadership through good governance, effective communication and ensuring value for money
Objective	5.1 A sustainable future through embracing change, applying technological advancement and pursuing efficiencies
Strategy	5.1.1 Establish a strong corporate governance framework to ensure high standards of integrity, ethics and accountability, and pursue professional development opportunities
Action	

OTHER STRATEGIC LINKS

Shire of Waroona 2023/24 Annual Budget

STATUTORY ENVIRONMENT

Local Government Act 1995 – Section 6.4

Local Government (Financial Management) Regulations 1996 – Regulation 34

SUSTAINABILITY & RISK CONSIDERATIONS

Economic - (*Impact on the Economy of the Shire and Region*)

Nil

Social - (*Quality of life to community and/or affected landowners*)

Nil

Environment – (*Impact on environment’s sustainability*)

Nil

Policy Implications

All financial policies from Policy FIN002 through to Policy FIN035.

Risk Management Implications

(Please refer to the Shire of Waroona Risk Framework when reviewing this section)

<i>Theme</i>	Operational - Adverse effects on core business, business continuity, human resource risks, loss of knowledge
<i>Description</i>	Non-compliance with the requirements stipulated by the <i>Local Government Act 1995</i>
<i>Consequence</i>	3 - Moderate
<i>Likelihood</i>	2 - Unlikely
<i>Rating</i>	Moderate (4-9)
<i>Controls / Review</i>	Monthly scheduled review of statements.

<i>Review Frequency</i>	Monthly
<i>Risk Owner</i>	Operational manager
<i>Acceptance</i>	Accept - Risk acceptable with adequate controls

CONSULTATION

Nil

RESOURCE IMPLICATIONS

Financial

Nil

Workforce

Nil

OPTIONS

Council has the option of:

1. receiving the monthly financial statements; or
2. not receiving the monthly financial statements.

CONCLUSION

That Council receives the monthly financial statements prepared in accordance with the *Local Government Act 1995*, section 6.4, and *Local Government (Financial Management) Regulations 1996*, regulation 34.

18.2.3 Child Safe Awareness Policy	
File Ref:	CM.7 Corporate Management - Policy - Policy Register
Previous Items:	Item 11.3.6 - Local Government Child Safety Officers & Proposed Reportable Conduct Scheme - OCM21/03/025
Applicant:	N/A
Author and Responsible Officer	Director Corporate & Community Services
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority
Appendix Number	18.2.3 – DRAFT CGP027 Child Safe Awareness

RECOMMENDATION

That Council adopts Policy CGP027 Child Safe Awareness.

IN BRIEF

The Child Safe Awareness Policy template has been developed by Department Local Government Sport and Cultural Industries (DLGSC) in response to Recommendation 6.12 from the Royal Commission into Institutional Responses to Child Sexual Abuse.

The policy aims to reduce the risk of harm and child sexual abuse in our communities by encouraging child safe environments to be created and maintained. This policy reflects the Shire of Waroona's commitment to encouraging local organisations to be child safe and ensure children are safe and empowered.

BACKGROUND

In 2018, the State Government accepted in principle, all 310 Royal Commission recommendations applicable to WA, including Recommendation 6.12.

The Royal Commission identified the opportunity to utilise the established responsibilities of local government within their broader role of supporting their community to protect the safety and wellbeing of children and young people.

The draft child safe awareness template development by DLGSC is focused on the role of local governments in WA in building and maintaining child safety awareness and knowledge by providing information for the organisations and individuals that operate in their communities.

REPORT DETAIL

The Royal Commission into Institutional Responses to Child Sexual Abuse recommended 10 child safe standards to improve child safe cultures and practices across all sectors providing services to children and young people. The standards have since been incorporated into the National Principles for Child Safe Organisations which were endorsed by the Council of Australian Governments in February 2019. The National Principles guide organisations to create child safe cultures and practices.

Recommendation 6.12 states:

With support from governments at the national, state and territory levels, local governments should designate child safety officer positions from existing staff profiles to carry out the

following functions:

- a) developing child safe messages in local government venues, grounds, and facilities,
- b) assisting local institutions to access online child safe resources,
- c) providing child safety information and support to local institutions on a needs basis, and
- d) supporting local institutions to work collaboratively with key services to ensure child safe approaches are culturally safe, disability aware and appropriate for children from diverse backgrounds.

The Child Safe Awareness Policy template has been developed through several rounds of consultation since 2020 and requires local governments to commit to several policy principles and complete 2 policy functions being:

- developing a process to deliver child safe messages (for example at [local government] venues, grounds and facilities or events)
- connecting and supporting local community groups, organisations, and stakeholders to child safe resources (including culturally safe and inclusive resources).

The current version of the template was developed through co-design sessions with local governments, the Commissioner for Children and Young People, and the WA Local Government Association in 2022.

The Child Safe Awareness policy applies to all, elected members, employees, volunteers, trainees, work experience students, interns, and anyone else who undertakes work on behalf of the Shire of Waroona, regardless of their work related to children or young people. It applies to occupants of Shire of Waroona facilities and venues, including visitors, contractors, and suppliers.

The Shire of Waroona has a leadership role in our community to support relevant organisations to be child safe and promote child safe practices. Although the Shire is not legally responsible for providing oversight of compliance with child safe practices, it should take any reasonable steps to engage with persons who utilise Shire of Waroona facilities to operate in alignment with the Child Safe Awareness policy.

Once adopted the Chief Executive Officer will determine which roles across the organisation will directly support the implementation of the Child Safe Awareness policy. The first tranche of child safe messages to be delivered have been developed by DLGSC and are based on the National Principles for Child Safe Organisations.

STRATEGIC COMMUNITY PLAN & CORPORATE BUSINESS PLAN

Focus Area	Our Community
Aspiration	To have a connected and involved community that improves our quality of life through developing quality places and implementing quality town planning
Objective	1.1 Create a connected, safe and cohesive community with a strong sense of community pride
Strategy	1.1.6 Ensure the safety of our community

OTHER STRATEGIC LINKS

Shire of Waroona Corporate Business Plan

1.1.6.1 Deliver community safety and crime prevention initiatives identified.

STATUTORY ENVIRONMENT

A multitude of various legislations – please refer to the policy document.

SUSTAINABILITY & RISK CONSIDERATIONS

Economic - (Impact on the Economy of the Shire and Region)

Nil

Social - (Quality of life to community and/or affected landowners)

The Shire of Waroona has a leadership role in our community to support relevant organisations to be child safe and promote child safe practices.

Environment – (Impact on environment’s sustainability)

Nil

Policy Implications

New policy CGP027 – Child Safe Awareness

Risk Management Implications

(Please refer to the Shire of Waroona Risk Framework when reviewing this section)

Theme	Reputation - Public perception, poor customer service, sub standard work, corruption
Description	The Royal Commission identified the opportunity to utilise the established responsibilities of local government within their broader role of supporting their community to protect the safety and wellbeing of children and young people.
Consequence	4 - Major
Likelihood	3 - Possible
Rating	Moderate (4-9)
Controls / Review	Developing a process to deliver child safe messages and connect and support local community groups, organisations, and stakeholders to child safe resources
Review Frequency	Annually
Risk Owner	Director
Acceptance	Accept - Risk acceptable with adequate controls

CONSULTATION

Department Local Government Sport & Cultural Industries
 Director Corporate & Community Services
 Corporate Planning & Governance Officer

RESOURCE IMPLICATIONS

Financial

Nil

Workforce

The Chief Executive Officer will determine which roles across the organisation will directly support the implementation of the Child Safe Awareness policy.

OPTIONS

Council has the option of:

1. accepting the officer's recommendation;
2. amending the officer's recommendation; or
3. rejecting the officer's recommendation

CONCLUSION

The template child safe awareness policy has been established by DLGSC to guide local governments in building and maintaining child safety awareness and knowledge by providing information for the organisations and individuals that operate in their communities.

It is requested that Council consider the adoption of this draft policy to ensure that the Shire is able to fulfil the requirements of the Royal Commission.

18.2.4 Chief Executive Officer – 2023 Annual Performance Review	
File Ref:	PE.17 – PERSONNEL – PERFORMANCE APPRAISALS
Previous Items:	Item 11.2.7 - Chief Executive Officer – 2022 Annual Performance Review - OCM22/11/171
Applicant:	N/A
Author and Responsible Officer	Director Corporate & Community Services
Declaration of Interest:	Mark Goodlet, Chief Executive Officer – Financial Interest – relating to employment contract.
Voting Requirements:	Absolute Majority
Appendix Number	18.2.4 A – Confidential Item - CEO Annual Review Document - Summary of Responses - September 2023 18.2.4 B – Confidential Item - CEO Contract of Employment

RECOMMENDATION

That Council:

- determines the Chief Executive Officer's performance from November 2022 to October 2023 to be ‘satisfactory’ or ‘not satisfactory’; and**
- endorses the Chief Executive Officer’s Key Performance Indicators (KPI) for the period November 2023 to October 2024 as stated below (notes that some KPIs will be dependent on budget decisions and allocations); and**

KPI	Description
1.	Investigate rates equity and income options. Ongoing.
2.	Investigate potential land swap opportunities and consolidations with the Shire of Waroona. Ongoing.
3.	Progress the Waroona Community Precinct Project Phase 2 fundraising by 30 June 2024. If successful progress to construction in line with terms of grant/s.
4.	Progress the Waroona Sport and Recreation Precinct Plan alternative site option for consideration by Council in December 2023.
5.	Complete a Shire of Waroona Destination Management Plan by 30 September 2024.
6.	Explore management of tourism and economic opportunities at Preston Beach and surrounds including input into the Yalgorup Master Plan. Ongoing.
7.	Influence the provision of water infrastructure for Waroona and the Peel region. Ongoing.
8.	Revisit the Waroona Cemetery Master Plan and develop a long-term Cemetery Plan. 30 Jun 2024.

9.	Investigate options for a Johnston Road (or East-West connection) Breakdown / Freight route. Ongoing.
10.	Complete the subdivision of 79 Mitchell Road, Preston Beach, investigate potential commercial opportunities and place on the market by 30 June 2024.
11.	Progress Envirocentre to develop costed plans and seek grants by 31 January 2024.
12.	Investigate and Progress options for Waroona Townsite sewer infill. Ongoing.

3. **authorises an increase of 5% to the Chief Executive’s cash component of the remuneration package as at the anniversary date of employment; and**
4. **endorses the 2023 annual performance review of the Chief Executive Officer and inform him of the results in writing.**

IN BRIEF

A review of the Chief Executive Officer’s (CEO’s) performance must be conducted at least once annually, in accordance with his contract of employment and Section 5.38 of the Local Government Act 1995.

Criteria for the review is set out in the employment contract as well as OCM21/11/185 Chief Executive Officer – 2022 Annual Performance Review. Evidence addressing all key performance indicators and position objectives is to be submitted to the Council for confidential feedback.

A report is then to be submitted to Council to be endorsed by an absolute majority and the CEO is to be informed of the outcome of the review process.

BACKGROUND

Chief Executive Officer (CEO) Mr Mark Goodlet commenced his five-year employment contract with the Shire of Waroona on 1 November 2021. The CEO’s annual performance review is set out in the contract of employment with key performance indicators agreed to in December 2021 (OCM21/12/205) and November 2022 (OCM22/11/171).

The CEO is required to establish a document addressing progress on all Key Performance Indicators (KPIs) and compliance with the position description objectives as set by Council. The Director of Corporate & Community Services is then to seek confidential written feedback from all Councillors and prepare a report recommending, by absolute majority the endorsement of the review. The CEO is then to be notified of the results.

REPORT DETAIL

Council Resolution OCM21/11/185 ‘CEO Performance Review Process’ details the performance measures and annual review process as listed below.

*Extract of OCM21/11/185
c. Annual Review*

- i. *The CEO to submit in writing to an August Briefing Session, an evidence-based statement of compliance and progress on the CEO position description performance requirements and existing CEO KPIs.*
- ii. *The Director Corporate and Community is to seek confidential written feedback from the Councillors on the CEO’s performance.*
- iii. *The Director Corporate and Community is to provide a review report to the August ordinary meeting of Council summarizing the confidential councillor feedback and recommending by absolute majority, an endorsement of the review.*
- iv. *The CEO is to be notified of the results of the review and if the review identifies any issues about the performance of the CEO — how the local government proposes to address and manage those issues.*

Council Resolution OCM22/11/171 ‘Chief Executive Officer – 2022 Annual Performance Review’ endorsed the CEO’s 2022 performance review and reconfirmed the KPI’s for the period November 2022 to October 2023.

In August 2023 the CEO presented to the Councillors a statement document addressing compliance and progress on all position description performance requirements and Key Performance Indicators (KPIs). All Councillors were then provided three weeks to complete their individual feedback based on the above criteria.

The confidential feedback was collated into a summarised document Appendix 18.2.4 A – CONFIDENTIAL - CEO Annual Review Document - Summary of Responses - September 2023 which was then circulated for Councillors to review and discuss in the subsequent briefing session.

Council has since decided on the proposed CEO’s KPIs from November 2023 to October 2024, which are detailed in the recommendation for endorsement.

There are currently no changes to the CEO’s position description and associated performance requirements.

Section 7 of the CEO’s contract (Appendix 18.2.4 B - CONFIDENTIAL CEO Contract of Employment) sets out the annual review of the remuneration package, which states that; the remuneration package must be reviewed annually at a time no later than 3 months after the anniversary of the commencement date, the Council is to determine and notify the CEO in respect of the review, and have regard to the following:

- the CEO’s performance,
- any changes to the work value or responsibility of the position,
- the hours worked by the CEO, including additional hours and those worked outside of normal working hours,
- the condition of the market and the economy in general, and
- the capacity of the Local Government to pay and increase.

STRATEGIC COMMUNITY PLAN & CORPORATE BUSINESS PLAN

Focus Area	Our Leadership
Aspiration	To embed strong leadership through good governance, effective communication and ensuring value for money
Objective	5.2 Develop a skilled, safe and compliant organisation
Strategy	5.2.1 Employ, maintain and retain a skilled workforce

OTHER STRATEGIC LINKS

Nil

STATUTORY ENVIRONMENT

LOCAL GOVERNMENT ACT 1995

Section 5.38 - Annual review of employees' performance

- (1) A local government must review the performance of the CEO if the CEO is employed for a term of more than 1 year.
- (2) The CEO must ensure that the performance of each other employee who is employed for more than 1 year is reviewed.
- (3) A review under subsection (1) or (2) must be conducted at least once in relation to each year of the person's employment.

Section 5.39 - Contracts for CEO and senior employees

- (7) A CEO is to be paid or provided with such remuneration as is determined by the Salaries and Allowances Tribunal under the Salaries and Allowances Act 1975 section 7A.

Section 5.39A - Model standards for CEO recruitment, performance, and termination

- (1) Regulations must prescribe model standards for local governments in relation to the following —
 - (a) the recruitment of CEOs;
 - (b) the review of the performance of CEOs;
 - (c) the termination of the employment of CEOs.
- (2) Regulations may amend the model standards.

LOCAL GOVERNMENT (ADMINISTRATION) REGULATIONS 1996

Section 18FA - Model standards for CEO recruitment, performance, and termination (Act s. 5.39A(1))

Schedule 2 sets out model standards for local governments in relation to the following —

- (a) the recruitment of CEOs;
- (b) the review of the performance of CEOs;
- (c) the termination of the employment of CEOs.

Division 3 — Standards for review of performance of CEOs

Section 15 - Overview of Division

This Division sets out standards to be observed by the local government in relation to the review of the performance of CEOs.

Section 16 - Performance review process to be agreed between local government and CEO

- (1) The local government and the CEO must agree on —
 - (a) the process by which the CEO's performance will be reviewed; and

- (b) *any performance criteria to be met by the CEO that are in addition to the contractual performance criteria.*
- (2) *Without limiting subclause (1), the process agreed under subclause (1)(a) must be consistent with clauses 17, 18 and 19.*
- (3) *The matters referred to in subclause (1) must be set out in a written document.*

Section 17 - Carrying out a performance review

- (1) *A review of the performance of the CEO by the local government must be carried out in an impartial and transparent manner.*
- (2) *The local government must —*
 - (a) *collect evidence regarding the CEO's performance in respect of the contractual performance criteria and any additional performance criteria in a thorough and comprehensive manner; and*
 - (b) *review the CEO's performance against the contractual performance criteria and any additional performance criteria, based on that evidence.*

Section 18 - Endorsement of performance review by local government

Following a review of the performance of the CEO, the local government must, by resolution of an absolute majority of the council, endorse the review.

Section 19 - CEO to be notified of results of performance review

After the local government has endorsed a review of the performance of the CEO under clause 18, the local government must inform the CEO in writing of —

- (a) *the results of the review; and*
- (b) *if the review identifies any issues about the performance of the CEO — how the local government proposes to address and manage those issues.*

SUSTAINABILITY & RISK CONSIDERATIONS

Economic - (Impact on the Economy of the Shire and Region)

Retaining a suitable qualified and experience CEO is vital to the success and sustainability of the Local Government.

Social - (Quality of life to community and/or affected landowners)

Nil

Environment – (Impact on environment's sustainability)

Nil

Policy Implications

Nil

Risk Management Implications

(Please refer to the Shire of Waroona Risk Framework when reviewing this section)

Theme	Operational - Adverse effects on core business, business continuity, human resource risks, loss of knowledge
Description	Continued employment of a suitable Chief Executive Officer is a key foundation of a successful organisation.
Consequence	4 - Major
Likelihood	4 - Likely
Rating	Moderate (4-9)
Controls / Review	Council is to ensure that the position of Chief Executive Officer is adequately filled, with clear guidance of objectives and KPIs.
Review Frequency	Annually
Risk Owner	Chief executive officer
Acceptance	Accept - Risk acceptable with adequate controls

CONSULTATION

Consultation with Elected Members, Chief Executive Officer, Director Infrastructure & Development Services, and Director Corporate & Community Services.

RESOURCE IMPLICATIONS

Financial

Financial impacts are estimated through the budget adoption process.

Workforce

Workforce implications are to remain, presuming the continued employment of the Chief Executive officer.

OPTIONS

Council has the option of:

1. accepting the Officer's recommendation;
2. amending the Officer's recommendation; or
3. rejecting the Officer's recommendation.

CONCLUSION

The Council is required to review the CEO's performance in accordance with endorsed KPIs and position description objectives at least once per year.

The CEO provided the Council with a statement of compliance with the endorsed KPIs and position objectives. Confidential feedback was then obtained and collated for further discussion. A briefing session was conducted to discuss the review.

Council is requested to determine the CEO's past performance as satisfactory or unsatisfactory, endorse or amend the list of proposed KPIs for the following 12 months and assess the CEO's remuneration.

18.2.5 User Agreement for 120 South Western Highway, Waroona – Just Cruizin Street Machiners Incorporated.	
File Ref:	LD244 - Just Cruizin Street Machiners - 120 South Western Highway
Previous Items:	Nil.
Applicant:	Nil.
Author:	Corporate Planning & Governance Officer
Responsible Officer:	Director Corporate & Community Services
Declaration of Interest:	Nil.
Voting Requirements:	Simple Majority
Appendix Number	18.2.5 – Just Cruizin Street Machiners User Agreement

RECOMMENDATION

That Council:

1. enters into the proposed User Agreement with Just Cruizin Street Machiners Incorporated, as per Appendix 18.2.5; and
2. authorises the Shire President and Chief Executive Officer to sign and execute all matters relating to the User Agreement.

IN BRIEF

Council is requested to consider entering the proposed User Agreement with Just Cruizin Street Machiners Incorporated, for the use of the identified Agreed Area located at 120 South Western Highway, Waroona, as per the Schedule of **Appendix 18.2.5**, and below.

BACKGROUND

The Management (Vesting) Order over 120 South Western Highway, Waroona has recently been transferred from the Department of Primary Industries and Regional Development to



the Shire of Waroona. On this property is a large office building, large open hardstand area, and multiple sheds, as per the map above, which the Shire are currently planning for the development and transformation of the property into a multi-function environmental hub.

Several sheds and a portion of the laydown area at the above property are utilised by local Landcare groups Harvey River Restoration Taskforce Inc., and the Peel Harvey Biosecurity Group Inc. for storage under a Shed User Agreement with the Shire of Waroona. This agreement is in place until restoration and refurbishments to the main office building at the property are completed, after which time all internal and external facilities (excluding portions set aside for Shire use, and future Containers-for-change operations) can be leased jointly by the above-mentioned Landcare groups.

Just Cruizin Street Machiners Inc. (JCSM) have recently approached the Shire requesting available storage space to temporarily store their club equipment. The group have been required to remove their possessions from the large storage shed located behind 'Irrigation House' at 93 South Western highway, Waroona, as part of the development of the new community precinct site.

During initial clearing and development of the precinct site, a smaller 6 x 6 metre shed was removed from directly behind Irrigation House. The Shire has been able to salvage this shed, re-erecting it within the south-western corner of the 120 South Western Highway property.

REPORT DETAIL

Just Cruizin Street Machiners Inc. have expressed their interest in leasing/using a small area of Shire-owned shed space to store their equipment until a more permanent storage solution can be found. The recently salvaged shed, now located at 120 South-western Highway has been offered by the Shire to JCSM to use temporarily as a storage solution.

As a result, a User Agreement between the Shire of Waroona and JCSM is proposed, as per **Appendix 18.2.5** for the use of the single 6 x 6 metre shed (the agreed area), with vehicle access enabled through the property to access the agreed area. There is no User's fee applicable to this agreement.

It should be noted that the term of this User Agreement is unfixed and shall continue on a periodic (month-to-month) basis until terminated by either Party by providing thirty (30) days written notice to the other Party.

STRATEGIC COMMUNITY PLAN & CORPORATE BUSINESS PLAN

Focus Area	Our Built Assets
Aspiration	To build and effectively manage our assets to continually improve our standard of living
Objective	4.1 Public spaces and infrastructure that are accessible and appropriate for our community, and meet the purpose and needs of multiple users
Strategy	4.1.1 Plan community facilities for current and future generations
Action	Nil

Focus Area	Our Leadership
Aspiration	To embed strong leadership through good governance, effective communication and ensuring value for money

Objective	5.1 A sustainable future through embracing change, applying technological advancement and pursuing efficiencies
Strategy	5.1.1 Establish a strong corporate governance framework to ensure high standards of integrity, ethics and accountability, and pursue professional development opportunities
Action	Nil

OTHER STRATEGIC LINKS

Nil.

STATUTORY ENVIRONMENT

Nil.

SUSTAINABILITY & RISK CONSIDERATIONS

Economic - (Impact on the Economy of the Shire and Region)

There is no User’s fee applicable to this agreement.

Social - (Quality of life to community and/or affected landowners)

Provision of an area that a local, not-for-profit community car club can utilise and therefore continue to operate efficiently and effectively within the Shire of Waroona.

Environment – (Impact on environment’s sustainability)

Nil.

Policy Implications

Nil.

Risk Management Implications

(Please refer to the Shire of Waroona Risk Framework when reviewing this section)

<i>Theme</i>	Reputation - Public perception, poor customer service, sub standard work, corruption
<i>Description</i>	Failing to support a local, not-for-profit community-driven club by providing a suitable storage area may result in poor customer service and public perception. The Shire’s reputation to cater for a significant local and active group within its community, could also be impacted.
<i>Consequence</i>	1 - Insignificant
<i>Likelihood</i>	2 - Unlikely
<i>Rating</i>	Low (1-3)
<i>Controls / Review</i>	Council’s endorsement of the recommendation of this report will mitigate the likelihood of this risk coming into effect.
<i>Review Frequency</i>	Annually
<i>Risk Owner</i>	Director
<i>Acceptance</i>	Accept - Risk acceptable with adequate controls

CONSULTATION

Agreement prepared in consultation with Just Cruizin Street Machiners Incorporated as the potential User.

RESOURCE IMPLICATIONS

Financial

Nil.

Workforce

Nil.

OPTIONS

Council has the option of:

1. accepting the Officer's recommendation; or
2. amending or rejecting the Officer's recommendation.

CONCLUSION

Council is requested to consider entering the proposed User Agreement with Just Cruizin Street Machiners Incorporated, for the temporary use of a small storage shed located at 120 South Western Highway, Waroona. This User Agreement is an opportunity for the Shire to support an active, community car club within the Shire of Waroona.

18.3 CHIEF EXECUTIVE OFFICER

18.4 ITEMS FOR INFORMATION

18.4.1 Application for Use of Bird Scaring Devices at Fruitico Farms	
File Ref:	A3821
Previous Items:	Item 11.1.4 - Application for Use of Bird Scaring Devices at Fruitico Farms and Capogreco Farms – OCM22/10/145 Item 11.2.1 - Application for Use of Bird Scaring Devices at Fruitico Farms Pty Ltd - Lots 1, 1, 2, 20, 270, 271 and 272 Buller Road, Waroona – OCM21/12/198
Applicant:	Fruitico Farms Pty Ltd
Author:	Manager Environmental Health (Shire of Murray)
Responsible Officer:	Director Infrastructure & Development Services
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority
Appendix Number	18.4.1 A – Application for Approval to Use Bird Scaring Device – Fruitico Farms 18.4.1 B – Fruitico Farm – Bird Scaring Gas Cannon - Noise Management and Monitoring Plan

RECOMMENDATION

That Council notes an approval subject to conditions has been issued to Fruitico Farms Pty Ltd, for the use of bird scaring devices on Lots 1, 2, 20, 270, 271, and 272 Buller Road, Waroona.

IN BRIEF

- An application for the use of bird scaring devices, pursuant to the Shire's new Health Local Law, has been submitted by Fruitico Farms Pty Ltd for determination.
- The application has been lodged with a supporting noise management plan.
- Approval is recommended subject to a range of conditions aimed at minimising potential noise nuisance.

BACKGROUND

Two of the Shire's significant fruit growers, Capogreco Farms Pty Ltd (Capogreco Farms) and Fruitico Farms Pty Ltd (Fruitico) have been using gas guns in recent years to scare off or deter birds from damaging fruit crops.

Whilst the growers contribute to the local economy and provide jobs, the use of gas guns to scare off or deter birds from damaging local fruit crops has resulted in frequent noise related complaints from nearby residents, demonstrating a significant nuisance and impact on the amenity of the nearby area.

It is understood that crop damage is at its highest in the first few hours after sunrise and the last few hours before sunset, however damage is not exclusively restricted to those periods. The peak damage period usually occurs as the fruit is ripening in the period from mid-December through to early May.

The use of gas guns is not directly regulated in Western Australia. The noise emitted from gas guns is however controlled indirectly by the Environmental Protection Act and Environmental Protection (Noise) Regulations. Operators have an obligation to manage noise in accordance with the limits set out in the Regulations and not cause unreasonable noise. Penalties apply for breaching these limits.

Notwithstanding the noise legislation, gas guns could be used throughout the day provided they meet the noise limits set out in the Regulations and do not result in unreasonable noise. The growers however expressed the need for early morning use of gas guns, being the time when birds are most active, although a period when the noise limits in the Regulations were hardest to meet. Adjacent residents also expressed the need for better controls than the noise legislation could provide, including requesting a break during the daytime periods when the noise limits were mostly being met.

The Shire in 2021 introduced new provisions into its Health Local Law in relation to gas guns. These provisions now require approval to be granted for the use of gas guns and enable the application of enforceable conditions. The provisions were informed by best practice guidelines and discussions with the fruit growers and adjacent residents. The Shire's Health Local Law sets out the key Bird Scaring Device Provisions (which includes gas guns), a full copy of the Local Law can be found at <https://www.waroona.wa.gov.au/council/governance/local-laws.aspx> and this became operative in September 2021.

Approvals for the use of bird scaring devices under the Local Law were granted for the 2022 and 2023 growing seasons for Fruitico and Capogreco Farms. It is recognised that the approvals provide a compromise for both growers and the community.

REPORT DETAIL

Fruitico Farms

Fruitico has lodged an application for the use of Bird Scaring Devices pursuant to the Shire's Health Local Law. The key elements of the application are as follows:

1. Relates to the entire Fruitico farm which covers seven lots, north and south of Buller Road, with a total land area of approximately 213 hectares;
2. Seeks the use of up to eight double blast gas guns across the farm for the period between 2 January to 15 May 2024. The number of gas guns will be transitioned up and down as needed and moved around the farm within the agreed areas as needed, focussing on the most affected areas;
3. Seven days per week operation, between sunrise and sunset, however not before 6am across the farm and not before 7am in the area nominated for day use (9am on Sundays and public holidays) and not after 7pm;
4. Use no closer than 500m to a dwelling on an adjacent lot during daytime use with hay bales and 600m without hay bales;
5. Use no closer than 1000m to a dwelling on an adjacent lot during early morning use with hay bales and 1200m without hay bales;
6. A break in use between 11am to 2pm daily;
7. The noise management plan demonstrates general compliance with the Noise Regulations;
8. Orientation of gas guns away from dwellings on adjacent lots together with use of hay bales to reduce noise impacts; and
9. Alternative bird scaring devices, include bird squawkers and lasers to supplement the use of gas guns.

A copy of Fruitico Noise Management and Monitoring Plan and supplementary information is included in **Appendix 18.4.1 B**.

The acoustic report dated 1 November 2021 shows that when gas guns are faced away from residences, they will comply with the Noise Regulations at buffer distances of 500m during the day, and 900m at night. Provided that Fruitico manage the gas gun siting as per the approval conditions and orientate the gas guns away from the nearest dwellings with screens, they should not need to regularly monitor the gas gun noise level, which makes the noise management plan fairly straight forward to administer from Fruitico's perspective, and clear for the Shire to assess whether it is being followed.

Conditions of approval in 2024 are effectively the same as for the previous year, with the following minor changes:

- Wording relating to operating times describing times more clearly; and
- Notice of approval to be displayed either in the newspaper or on site (not both).

Council may consider granting a longer approval period, such as 3 years, given there were very few gas gun complaints in 2023.

Capogreco Farms

Capogreco Farms has not lodged an application for the use of Bird Scaring Devices and has advised "we will not be using gas guns this season. All the Shire's restrictions and times make it impossible for use."

Approval and Conditions

The approval and conditions is provided below.

An application, submitted by Brian Dell'Agostino on behalf of Fruitico Farms Pty Ltd, for the use of bird scaring devices on Lots 1, 2, 20, 270, 271, and 272 Buller Road, Waroona has been approved. This application has been approved subject to the following conditions:

- a) This approval relates to the use of bird scaring devices for the period 2 January 2024 to 15 May 2024 inclusive, and is exclusive of any public holidays;
- b) The approved gas guns must only be used while lasers and bird squawkers are being used as proposed in the application;
- c) Notwithstanding the approval, gas guns must only be used to the minimum extent necessary to deter birds from damaging crops, with bird squawkers and lasers used as a first option;
- d) Bird scaring devices permitted to be used under this approval are up to seven gas guns, being Zon 'Mark 4' gas cannons, and bird squawkers only. Bird squawkers are to be set at a volume that does not cause nuisance to residents of nearby properties. No more than four gas guns are to be used on the portion of the land north of Buller Road and no more than three gas guns are to be used on the portion of the land south of Buller Road;
- e) The gas guns must only be used on the 'normal' setting as described in the approved Noise Management and Monitoring Plan prepared by Reverberate Consulting and dated 1 November 2021 and only whilst placed at ground level;

- f) Gas guns must not be used within 500 metres of a dwelling on the adjacent lots, unless the maximum noise levels set out in the Environmental Protection (Noise) Regulations are not exceeded;
- g) Gas guns must not be used within 100 metres of a property boundary abutting a road when the tube of the gas gun faces the road or within 50 metres of a property boundary abutting a road where the tube of the gas gun faces away from the road;
- h) Gas guns must not be used before sunrise or after sunset, as published by the Bureau of Meteorology, on any day and in any case not before 6am on any day;
- i) Gas guns may be used after 6am or sunrise whichever comes later, until:
 - (i) 7am on Mondays to Saturdays; and
 - (ii) 9am on Sundays and public holidays;

provided that gas guns are located further than 1,200 metres from dwellings on adjacent lots. The 1,200 metres distance may be reduced to a minimum of 1000 metres provided compliance with the Environmental Protection (Noise) Regulations is achieved and gas guns are screened by way of hay bales (or other suitable method designed to maximise noise mitigation) installed close to the gas gun. The hay bales are to be positioned in a 'U' shape at the rear and sides of the gas gun approximately one metre from the gas gun and to a height of at least 1.2 metres, unless otherwise approved in writing by the Shire following advice from an acoustic consultant;

- j) Gas guns may be used from:
 - (i) 7am to 11am and 2pm to 7pm or sunset whichever comes sooner, Mondays to Saturdays; and
 - (ii) 9am to 11am and 2pm to 7pm or sunset whichever comes sooner on Sundays and public holidays;

provided that gas guns are no closer than 600m from dwellings on adjacent blocks. The 600 metres distance may be reduced to a minimum of 500 metres, provided compliance with the Environmental Protection (Noise) Regulations is achieved and gas guns must only be used where screening by way of hay bales (or other suitable method designed to maximise noise mitigation) is installed close to the gas gun. The hay bales are to be positioned in a 'U' shape at the rear and sides of the gas gun approximately one metre from the gas gun and to a height of at least 1.2 metres, unless otherwise approved in writing by the Shire following advice from an acoustic consultant;

- k) Gas guns must not be used between the hours of 11am and 2pm on any day;
- l) Gas guns must be oriented with the tube facing as far as possible away from dwellings on the adjacent lots;
- m) The interval between blasts from an individual gas gun must not be less than six minutes. A blast sequence from a multiple blast gas gun may be counted as a single blast provided the time between the first blast and the last blast in a sequence does not exceed five seconds;
- n) The current location of gas guns is to be provided to the Shire of Waroona (by GPS location or site plan) at least once per week, by the close of business each Wednesday;

- o) Notice of the approved use of bird scaring devices is to be given to members of the public within 4 weeks of the approval being granted in a form approved by the Shire by way of:
 - (i) Notice published in the ‘Harvey Waroona Reporter Community Newspaper’; or
 - (ii) Notice installed on a durable sign placed on the fence in a prominent position on the fence at the main entrance to the land where the bird scaring devices are to be used. The Notice is to set out key details of the approval including the period of approval, days and times of operation, location where the approved Noise Management and Monitoring Plan as well as the complaint response procedure may be viewed and the name and telephone number for any noise complaints to be made. The sign notice is to be maintained in good condition for the approval period;

- p) A designated noise complaint contact person and telephone number is to be established and be available to take and act on complaints at all times during the approval period. All complaints are to be considered and addressed wherever reasonably practical with the outcome to be communicated to the complainant as soon as reasonably practical and in any case within 24 hours of the complaint being made;

- q) A record of any noise complaints received is to be placed in a register and kept onsite for at least two years. The complaint register is to include a record of details of the complaint including:
 - (i) the date that the complaint was received;
 - (ii) the complainants name, contact details and the affected property;
 - (iii) a description of the complaint including the dates and start and end times when the issue occurred, the location the issue occurred;
 - (iv) a comment describing the location of the relevant gas gun at the time, including the approximate distance and receiver direction relative to the gas gun; and
 - (v) a comment on the advice provided to the complainant and any action taken to address the complaint;

- r) The complaint register is to be made available for viewing by Shire officers and a copy provided to the Shire upon request and within 14 days of the end of the approval period; and

- s) If the approved use of gas guns is carried out in a manner that in the opinion of the Shire is causing a nuisance to owners or occupiers of land in the vicinity, or there is a breach of condition(s), the Shire may withdraw the approval granted by it or may modify the conditions of approval. After such withdrawal or modifications to conditions of approval, gas guns are either not to be used or are to be used in a manner consistent with the modified conditions of approval as the case may be; and

STRATEGIC COMMUNITY PLAN & CORPORATE BUSINESS PLAN

Focus Area	Our Community
Aspiration	To have a connected and involved community that improves our quality of life through developing quality places and implementing quality town planning
Objective	5.3 Actively increase the level of engagement with the community, and respond efficiently and effectively to the evolving needs of the community

Strategy	5.3.2 Deliver efficient and effective Council services to the community
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OTHER STRATEGIC LINKS

Nil

STATUTORY ENVIRONMENT

- *Shire of Waroona Health Local Law 2021 – **determination of approvals with or without conditions for bird scaring devices is delegated to the Chief Executive Officer***
- *Environmental Protection (Noise) Regulations 1997*
- *Environmental Protection Act 1986*

The Department of Environment ‘Best Practice Guidelines for Bird Scaring in Orchards’ provides general guidance for gas guns and suggests ways in which gas guns can be effective for deterring birds as well as being managed for noise impacts for residents. It suggests a break in the middle of the day that gas guns remain silent, although it does not designate specific times.

SUSTAINABILITY & RISK CONSIDERATIONS

Economic - (Impact on the Economy of the Shire and Region)

Clear guidance is needed for growers on what is expected in relation to gas guns so that they can effectively adapt their operations to meet the Shire’s requirements.

Social - (Quality of life to community and/or affected landowners)

Noise associated with the use of gas guns has resulted in a significant nuisance and impact on the amenity of nearby residents.

Environment – (Impact on environment’s sustainability)

Nil

Policy Implications

There are no Shire policies related to the use of bird scaring devices.

Risk Management Implications

(Please refer to the Shire of Waroona Risk Framework when reviewing this section)

<i>Theme</i>	Environmental - Regulatory compliance, contamination, inadequate processes
<i>Description</i>	Noise impacts on adjacent community
<i>Consequence</i>	3 - Moderate
<i>Likelihood</i>	3 - Possible
<i>Rating</i>	Moderate (4-9)
<i>Controls / Review</i>	Appropriate conditions of approval
<i>Review Frequency</i>	Annually
<i>Risk Owner</i>	Operational manager
<i>Acceptance</i>	Accept - Risk acceptable with adequate controls

CONSULTATION

There is provision in the Shire of Waroona Health Local Law 2021 that the Shire may consult with owners and occupiers of nearby premises as part of the process for approval of applications for the use of bird scaring devices.

The Shire has used feedback from residents via complaints during the 2023 growing season to review the operating conditions. Complaints recorded on the respective grower complaints registers were two for Fruitico, and zero for Capogreco Farms. One complaint related to gas guns going late into the night on one occasion due to a medical incident, and one complaint about gas guns being too loud. Both complaints were resolved quickly and are not expected to require modifications to the approval conditions in 2024.

RESOURCE IMPLICATIONS

Financial

The applicant has paid the renewal fees of \$175 for each application for the use of bird scaring devices.

Workforce

The applications have been assessed within existing staff resource levels.

OPTIONS

Council has the option of:

1. approving the application with or without conditions; or
2. not approving the application with stated reasons.

CONCLUSION

The application meets the requirements of the local law and the Noise Regulations. Approval conditions are being applied to minimise the noise impacts of gas guns on nearby residents.

18.4.2 Hazardous Substances Register & Annual Review	
File Ref:	RM.6 - RISK MANAGEMENT - HAZARDOUS SUBSTANCES REGISTER - WORK HEALTH AND SAFETY
Previous Items:	
Applicant:	Senior Asset Services Officer
Responsible Officer	Manager Works & Waste Services
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority
Appendix Number	APP 18.4.2 - Project Summary – Safe Chemical Use Project Update

RECOMMENDATION

That Council notes completion of the review and update of the Chemical Safety Data Sheets & Hazardous Substances Register as per Appendix 18.4.2.

IN BRIEF

The compliance task: Undertake a review of the “Hazardous Substances Register for Council”, has been completed and approved by the Chief Executive Officer. Given the risk profile of this body of work it is presented to Council for their information.

BACKGROUND

In February 2023 the Assets and Works Support Officer commenced a project ‘Safe Chemical Use, Handling and Storage’. It was identified at the time that over 200 chemicals had been listed following an inventory pick up, and that Risk Assessments had not been completed for many Hazardous Substances. It was also highlighted that cleaning staff had not received any formal training in the safe use of chemicals. Legislative changes were also being introduced in March 2023.

A 4-step methodology has now been introduced to control chemical hazards and to reduce the risk and improve workplace safety. This chemical management methodology is segmented into 4 clear steps which are designed to enable chemical hazard prevention. These steps are:

1. Identify
2. Assess
3. Control
4. Sustain

Further information can be reviewed in **Appendix 18.4.2 - Project Summary – Safe Chemical Use**.

REPORT DETAIL

A chemical inventory review has taken place across all departments. The recording and management of Chemical Safety Data Sheets has been standardised and centralised on Monday.Com for all departments. An additional tab filtered for hazardous substances has also been created to allow for an accessible “live” view of our stored hazardous substances.

Review Status Update & Highlights -

- All cleaning staff have received training on the safe use and storage of chemicals in a face-to-face training session. Representatives from Kleen West also attended and gave an overview of their brand and products.
- A Hazardous Substances Procedure has been implemented on 16 May 2023.
- Management Practice HRMP019 - Employees and Biological Hazards has been implemented.
- All departments have commenced using Monday.com to manage chemical safety data sheets and chemical reviews.
- The volume of chemicals and hazardous substances being utilised have reduced.
- A process is in place to continue the ongoing maintenance of the registers and complete risk assessments where required.
- Communication to all staff has been sent about the purchasing of chemicals and the requirements to maintain registers.
- A monthly program (Work Health and Safety Workplace Inspections) has been established to carry out regular checks of workplaces and chemicals storage facilities to audit for compliance and any associated hazards.

Ongoing Tasks

- Continue to maintain the ‘Safety Data Sheets’ register and update where required.
- Ongoing review of hazardous substances and completion of risk assessments where they have not been done.
- Continue to seek opportunities to eliminate hazardous substances or substitute them for a safer option.

All the recorded hazardous substances that are being used by Shire staff, and their corresponding safety data sheets are contained in the Officer-managed operational registers:

STRATEGIC COMMUNITY PLAN & CORPORATE BUSINESS PLAN

Focus Area	Our Built Assets
Aspiration	To continually care for, protect and enhance our environment for the generations to come
Objective	1.4 Encourage an active and healthy community with an improved quality of life
Strategy	1.1.6 Ensure the safety of our community

OTHER STRATEGIC LINKS

Shire of Waroona Chemical Safety Data Sheets & Hazardous Substance Register

STATUTORY ENVIRONMENT

- Work Health and Safety Act 2020.
- Dangerous Goods Safety Act 2004
- Dangerous Goods Safety (Storage and Handling of Non-explosives) Regulations 2007.
- Work Health and Safety (General) Regulations 2022 – Regulation 346.

WORK HEALTH AND SAFETY (GENERAL) REGULATIONS 2022

Division 3 — Register of hazardous chemicals

Regulation 346 - Hazardous chemicals register.

(1) A person conducting a business or undertaking at a workplace must ensure that –

- (a) a register of hazardous chemicals used, handled or stored at the workplace is prepared and kept at the workplace; and
- (b) the register is maintained to ensure the information in the register is up to date.

Penalty for this sub regulation:

- (a) for an individual, a fine of \$7 000;
- (b) for a body corporate, a fine of \$35 000.

(2) The register must include —

- (a) a list of hazardous chemicals used, handled or stored; and
- (b) the current safety data sheet for each hazardous chemical listed.

(3) The person must ensure that the register is readily accessible to —

- (a) a worker involved in using, handling or storing a hazardous chemical; and
- (b) anyone else who is likely to be affected by a hazardous chemical at the workplace.

Penalty for this sub regulation:

- (a) for an individual, a fine of \$4 200;
- (b) for a body corporate, a fine of \$21 000.

(4) This regulation does not apply to a hazardous chemical if —

- (a) the hazardous chemical is in transit, unless there is a significant or frequent presence of the hazardous chemical in transit at the workplace; or
- (b) the hazardous chemical is a consumer product, and the person is not required to obtain a safety data sheet for the hazardous chemical under regulation 344.

Note for this regulation:

See regulation 344(4).

Division 5 — Control of risk: obligations of persons conducting businesses or undertakings

Regulation 351 – Management of risks to health or safety

(1) A person conducting a business or undertaking must manage, in accordance with Part 3.1, risks to health and safety associated with using, handling, generating or storing a hazardous chemical at a workplace.

Note for this subregulation:

WHS Act — section 19 (see regulation 9).

(2) In managing risks the person must have regard to the following —

- (a) the hazardous properties of the hazardous chemical;
- (b) any potentially hazardous chemical or physical reaction between the hazardous chemical and another substance or mixture, including a substance that may be generated by the reaction;
- (c) the nature of the work to be carried out with the hazardous chemical;
- (d) any structure, plant or system of work -
 - (i) that is used in the use, handling, generation or storage of the hazardous chemical; or
 - (ii) that could interact with the hazardous chemical at the workplace.

SUSTAINABILITY & RISK CONSIDERATIONS

Economic - (Impact on the Economy of the Shire and Region):

Ad hoc chemical selection and / or use can result in higher operational costs.

Social - (Quality of life to community and/or affected landowners):

Incorrect chemical selection and/or use can have negative impacts on the community accessing civic facilities.

Environment – (Impact on environment’s sustainability):

Incorrect chemical selection and / or use can have negative environmental impacts.

Policy Implications

Incorrect chemical selection and / or use can have negative consequences for employees using them. The register restricts selection options minimising potential risks, and providing safe handling controls, in compliance with WHS policy.

Risk Management Implications

(Please refer to the Shire of Waroona Risk Framework when reviewing this section)

Theme	Health - Exposure to health risks, injuries to public or staff with Council buildings or on Council property, personal wellbeing
Description	Breach of WHS Acts and Regs also Dangerous Goods Act and Dangerous Goods Regulations.
Consequence	3 - Moderate
Likelihood	3 - Possible
Rating	Moderate (4-9)
Controls / Review	Undertake a review of SDS and Hazardous Substances
Review Frequency	Annually
Risk Owner	Chief executive officer
Acceptance	Accept - Risk acceptable with adequate controls

CONSULTATION

- LGIS – Regional Risk Coordinator
- Prompt Safety Solutions
- Chemical Suppliers
- Shire of Waroona Internal Departments and Employees
- Shire of Waroona Executive Management Team

RESOURCE IMPLICATIONS

Financial

By consolidating the chemical type to a single supplier allows for economy of scale purchasing, resulting in operational cost reductions.

Workforce

Nil

OPTIONS

Council has the option of:

1. accepting the officer recommendation to endorse the proposed actions;

2. amending the officer recommendation to endorse the proposed actions; or
3. rejecting the officer recommendation to endorse the proposed actions.

CONCLUSION

Following a 'Safe Chemical Use, Handling and Storage' project, it was identified at the time that over 200 chemicals had been listed as in use, and that Risk Assessments had not been completed for many Hazardous Substances. Possing a potentially hazardous risks to the staff, environment, and community. The introduction and annual review of the hazardous substance register, minimises this risk by restricting selection options and providing safe handling controls, in compliance with WHS policy.

19. **BUSINESS LEFT OVER FROM A PREVIOUS MEETING**
20. **ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**
21. **NOTICE OF MOTIONS FOR CONSIDERATION AT A FOLLOWING MEETING**
22. **NEW BUSINESS OF AN URGENT NATURE APPROVED BY THE PERSON PRESIDING OR BY DECISION OF THE MEETING**
23. **MEETING CLOSED TO THE PUBLIC**

RECOMMENDATION

That Council proceeds behind closed doors as per Section 5.2.3(2) of the Local Government Act for the purpose of considering Item 23.1.

23.1 Tender – RFT T2324-04 Supply and Delivery of a 6-Wheeler Tip Truck and Trade of Existing 6-Wheeler.	
File Ref:	T2324/04 - FINANCIAL MANAGEMENT – TENDERING - Request for Tender - RFT 2324 - 04 CM.8 CORPORATE MANAGEMENT – TENDERING – Quotations - Yearly Registers
Previous Items:	N/A
Applicant:	N/A
Author:	Senior Technical & Waste Officer
Responsible Officer	Manager Works & Waste Services
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority
Appendix Number	Nil

A confidential report has been provided under separate cover.

24. MEETING OPENED TO THE PUBLIC

RECOMMENDATION

That the meeting resume in public.

25. CLOSURE OF MEETING